

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENTS ON BEHALF OF STUDENT,

v.

LODI UNIFIED SCHOOL DISTRICT AND  
VALLEY MOUNTAIN REGIONAL  
CENTER.

OAH CASE NO. 2013120812

ORDER GRANTING VALLEY  
MOUNTAIN REGIONAL CENTER'S  
MOTION TO BE DISMISSED AS A  
PARTY

PROCEDURAL BACKGROUND

On June 4, 2013, Parents on behalf of Student (Student) filed a Request for Due Process Hearing in OAH case number 2013060287 naming the Lodi Unified School District (District). Student alleged that the District procedurally and substantively denied him a free appropriate public education over several school years. In pertinent part, Student alleged that he required placement in a residential treatment center called Heartsprings, which is located in Kansas.

On June 27, 2013, Student<sup>1</sup> filed a Request for Fair Hearing in OAH case number 2013061092 (Second Case), naming the Valley Mountain Regional Center (VMRC). In pertinent part, Student contended that VMRC had failed to provide him with residential treatment in a location with appropriate educational services within or in close proximity to the residential facility. Student requested that VMRC place him at Heartsprings in Kansas.

In an Order dated July 18, 2013, OAH denied Student's motion to consolidate the two cases.

Student moved to dismiss his due process complaint against the District in OAH case number 2013060287, based upon a settlement agreement reached between the parties.

VMRC held an informal hearing on October 18, 2013, regarding Student's request for fair hearing in OAH case number 2013061092, in which VMRC determined that it would

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<sup>1</sup> Although Student is referred to as Claimant in his request for fair hearing, he will be referred to as "Student" in this Order for the sake of uniformity.

only fund a residential treatment facility located in California. Student's request for fair hearing in front of OAH is pending.

### PRESENT LITIGATION

Student filed a request for due process hearing in the instant case on December 20, 2013, naming both the District and VMRC. Student filed this case pursuant to title 20 United States Code, section 1415(b)(7)(A). In pertinent part, Student alleges that the District has denied him a free appropriate public education beginning on December 3, 2013, and continuing through the remainder of the 2013-2014 school year, based on the District's failure to place Student at Heartsprings after that date. Student further alleged that VMRC had failed to offer him a residential placement that would enable him to receive a free appropriate public education.

On January 3, 2014, VMRC filed a motion to be removed as a party to this case. VMRC contends that it is an improper party in a due process case because it is not a local educational agency. Student filed an opposition to the motion on January 8, 2014. Student states that VMRC has proposed placing Student at a residential treatment facility located in Stockton, California, which has no school component. Student contends that since Student's placement at this facility would, by operation of California educational statutes, change Student's school district based upon his change in residency, VMRC is a necessary party to the instant due process proceeding.

### APPLICABLE LAW AND DISCUSSION

Special education due process hearing procedures extend to the parent or guardian, to the student in certain circumstances, and to "the public agency involved in any decisions regarding a pupil." (Ed. Code, § 56501, subd. (a).) A "public agency" is defined as "a school district, county office of education, special education local plan area, . . . or any other public agency . . . providing special education or related services to individuals with exceptional needs." (Ed. Code, §§ 56500 and 56028.5.). Regional Centers are not responsible for providing special education or related services to children with special needs. As Student was previously informed in OAH's Order dated July 18, 2013, denying his motion to consolidate the two prior cases, Regional Centers provide services under the Lanterman Act (Welf. & Inst.Code, §§ 4400 et seq., 4512) for developmentally disabled infants, toddlers, children and adults who qualify with specified disabilities. The services provided by Regional Centers are separate from those provided under the Individuals with Disabilities Education Act and state education statutes addressing special education matters.

Although Student argues that VMRC is somehow responsible for providing him with a free appropriate public education, he offers no statutory or case law support for this contention. Rather, the District, as Student's present local educational agency, has the responsibility for providing Student with a free appropriate public education. VMRC does not share this responsibility and cannot be held accountable for special education and related services which were provided, or should have been provided to Student pursuant to the

individualized education program process. (20 U.S.C. § 1412(a)(1)(A); 34 C.F.R. § 300.101(a) (2006).)

Student's argument that VMRC is a necessary party because Student's school district of residence will change should VMRC placed him at the residential treatment facility in Stockton, California, is not persuasive. First, Student's parents would have to accept the placement recommendation and agree to his placement at that facility. There is no evidence that this has occurred. More important, should Student's residence change, his new school district would be responsible for providing him with a free appropriate public education. If Student believes in the future that the new school district failed to do so, he would have the right to file for due process naming that district. VMRC would have no effect on Student's ability to file for due process against the new school district or on his ability to maintain an action against Lodi, his present school district. Student offers no support for his position that VMRC, by virtue of its potential obligation to provide Student a residential placement under the Lanterman Act, is appropriately named as a party to a due process proceeding.

#### ORDER

VMRC's motion to be dismissed as a party to this action is granted.

Dated: January 21, 2014

/s/

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DARRELL LEPKOWSKY  
Administrative Law Judge  
Office of Administrative Hearings